

EDMUND H. McCABE, ASSIGNEE OF ANTOINE SOULARD.

[To accompany bill H. R. 588.]

DECEMBER 12, 1856.

Mr. PORTER, from the Committee on Private Land Claims, made the following

REPORT.

The Committee on Private Land Claims, to whom had been referred the petition of Lewis V. Bogy and Elizabeth T. McCabe, executors of Edmund H. McCabe, beg leave to report :

That on the 20th April, 1796, Zenon Trudeau, governor of Upper Louisiana, granted to Antoine Soulard ten thousand arpents of land, at a point fifteen miles west of the Mississippi river, and seventy miles north of the port of St. Louis.

That under the act of Congress 26th May, 1824, conferring jurisdiction on the district court of Missouri, to enable claimants of land within said State to institute suit to try the validity of their claims, the said Antoine Soulard, on the 22d August, 1824, filed his petition in said district court, praying for a confirmation of the title of said land. The said petition also stated that 2,067.82 acres of said land had been, prior to the filing of said petition, sold by the government of the United States, and prayed for the latter quantity he might be allowed to locate a like quantity on other public lands of the United States. The said Antoine having subsequently died on 27th March, 1825, Julia Soulard, his widow, and James, Henry, Eliza, and Benjamin, his children and heirs at law, were made parties to this petition.

The district court having, on the hearing of the petition, decided against the validity of the said title, an appeal, as provided by law, was taken to the Supreme Court of the United States, where the case was twice argued, and at the January term, 1836, the court delivered a unanimous opinion, in which they held that the said claim to land "is a good and valid title thereto by the law of nations, the laws, usages, and customs of Spain, the treaty between France and the United States for the cession of Louisiana and the stipulations thereof, as well as the acts of Congress in relation thereto." The court then decreed that "the title to the land embraced in the concession and survey, which has not been sold by the United States, is valid by the laws and treaty aforesaid, and is hereby confirmed agreeably to said

concession and survey; and, further, that the claimants should have a right to enter the same quantity of land as may have been sold by the United States within the boundaries of said tract prior to the filing of said petition.

In pursuance of this decree a survey was made by the surveyor general, which was executed and approved 19th September, 1840. (No. 3,016.) This survey shows that the tract contained 10,000 arpents, equal to 8,506.94 acres. It also shows that the government had sold, prior to the filing of the petition aforesaid, 2,120.58 acres, for which the claimants received a certificate of relocation, as provided for in the decree of the Supreme Court.

It further appears that, between the period of filing the petition and the date of the decree of the Supreme Court in 1836, the government of the United States sold other large portions of the land lying within the boundaries of said claim.

It is for an equivalent for these lands that the petition is now presented, and in the opinion of the committee the claim is founded in justice. The point presented is a simple one. The government has sold lands within a claim derived from the former government of Louisiana, which claim has been decided by the Supreme Court to be obligatory on the good faith of this government according to treaty stipulations. The duty to make compensation is very clear, and was fully established by the Supreme Court in their decree heretofore referred to, in which they ordered certificates of relocation to issue for the land sold prior to the filing of the petition.

On these principles the committee submit a bill providing for a right to relocate on public lands a quantity equivalent to that sold within the boundaries of the said claim between the filing of the petition and the date of the patent under the decree of 1836.